

9 FAM 41.84 PROCEDURAL NOTES

(TL:VISA-437; 07-10-2002)

9 FAM 41.84 PN1 APPLICATION TO INS FOR T NONIMMIGRANT CLASSIFICATION

(TL:VISA-413; 05-21-2002)

Because there is a requirement that victims of trafficking be physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port-of-entry in order to apply for T status, and because only the Attorney General may approve such status, no application for such status may be accepted by an overseas post. Pursuant to INS regulations, an applicant seeking T-1 nonimmigrant status shall submit to the INS Vermont Service Center a complete application package containing the required documents, photographs, evidence, and fees. A T-1 principal may apply for T-2, T-3, or T-4 nonimmigrant status for an eligible family member by submitting Form I-914, *Application for T Nonimmigrant Status* and all the necessary documentation to INS, including Form I-914 Supplement A, *Application for Immediate Family Member of T-1 Recipient*. This may be submitted in conjunction with the application for T-1 status or at a later date.

9 FAM 41.84 PN2 ISSUING T VISAS

9 FAM 41.84 PN2.1 Post's Role

(TL:VISA-413; 05-21-2002)

When INS approves an application for a qualifying immediate family member who is outside the United States, INS will notify the principal T-1 alien of such approval via Form I-797, *Notice of Action*. INS will send a copy of the approved Form I-914 Supplement A, *Application for Immediate Family Member of T-1 Recipient* to the Department's Kentucky Consular Center (KCC), which will then transmit the form via electronic mail to the appropriate post. Upon receipt of the approved Form I-914 post must contact the beneficiary, advise her or him of documentary requirements and schedule an interview.

9 FAM 41.84 PN2.2 Background Check

(TL:VISA-413; 05-21-2002)

The post must conduct a CLASS namecheck for all T applicants, preferably before the interview date. Additionally, all T visa applicants and derivatives between the ages of 14 and 79 years of age must be fingerprinted for the purpose of conducting a criminal background check. INS will send instructions and documentation regarding the fingerprint process for derivatives directly to the T-1 principal in the United States.

9 FAM 41.84 PN2.3 Waiver Recommendations

(TL:VISA-413; 05-21-2002)

- a. Aliens who know or believe they are ineligible for a T visa due to a waivable 212(a) inadmissibility are required to submit to the INS Vermont Service Center an application for a waiver of inadmissibility under the special waiver provisions of INA 212(d)(13), at the same time that they submit their completed Form I-914, *Application for T Nonimmigrant Status* package.
- b. If, at the time of the subsequent visa application, the consular officer discovers a ground of inadmissibility unknown to INS at the time the Form I-914 was adjudicated, the consular officer may recommend a 212(d)(3)(A) waiver according to the rules set forth in 9 FAM 40.301. However, if the consular officer chooses not to recommend a 212(d)(3)(A) waiver, and the inadmissibility can be waived by the Attorney General under the authority granted in 212(d)(13) of the INA, the consular officer must notify the INS Vermont Service Center in writing of the inadmissibility so that INS can consider whether to exercise its special, exclusive authority to grant a waiver under that alternative provision. The report to INS may contain the officer's views regarding the advisability of granting the waiver.

9 FAM 41.84 PN2.4 Referring Approved T Application to INS for Reconsideration

(TL:VISA-437; 07-10-2002)

Posts shall consider all INS-approved Form I-914, *Application for T Nonimmigrant Status* applications in light of these Notes, process with dispatch those cases which appear legitimate, and identify those which require local investigation or referral to the INS Vermont Service Center. Posts should refer cases to INS for reconsideration sparingly, to avoid

inconveniencing bona fide applicants and beneficiaries and causing duplication of effort by INS. Consular officers must have specific evidence of either misrepresentation in the application process or of previously unknown facts, which might alter INS's finding, before requesting review of a Form I-914 approval. When seeking reconsideration, the consular officer shall, *under cover of Form DS-3096, Consular Return/Case Transfer Cover Sheet*, forward the Form I-914 application, all pertinent documentation, and a written memorandum of the evidence supporting the request for reconsideration to the INS Vermont Service Center. A copy of all material, including the approved Form I-914 and supporting documents, must be retained at post.

9 FAM 41.84 PN3 VALIDITY OF T VISAS

(TL:VISA-413; 05-21-2002)

T visas will be issued for six months, one entry.

9 FAM 41.84 PN4 NUMERICAL CONTROL

(TL:VISA-413; 05-21-2002)

The Department shall maintain centralized control of the T-1 numerical limitation. Derivatives do not require numbers.